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5 Attorneys for Defendant  
6 GLEN EDWARD GARNER

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

**STIPULATION AND ORDER TO CONTINUE DEADLINE FOR FILING OF  
PRETRIAL MOTIONS AND RELATED DATES**  
**(Eighth Request)**

IT IS HEREBY STIPULATED AND AGREED, by and between Defendant GLEN EDWARD GARNER, by and through his attorney (Richard J. Pocker, Esq. of the law firm of Boies Schiller Flexner LLP), and the Plaintiff UNITED STATES OF AMERICA (hereinafter, "the Government"), by and through its attorney (Assistant United States Attorney Kevin Schiff), that the deadline for the filing of pretrial motions be extended to April 20, 2020, and the due date for any responses to pretrial motions be extended to May 4, 2020.

26 This Stipulation is entered into for the following reasons:

1. The present case is currently set for trial on June 2, 2020. The discovery process  
in the present case is, in the view of Defendant GARNER, not yet complete. The date by

1 which pretrial motions are to be filed is April 13, 2020, only 5 days away. As noted in earlier  
2 filings, the Government has discovered and provided relevant tape recordings of conversations  
3 between the key witness against Defendant GARNER and a person alleged to be Defendant  
4 GARNER, gathered through the electronic surveillance authorized in another investigation.  
5 Although the Government has made the disclosure of these recordings, as well as much of the  
6 Title III paperwork associated with the electronic surveillance in the past few weeks, Defendant  
7 GARNER has not yet received important paperwork related to that surveillance, including  
8 documents reflecting approval under Title III from the appropriate authorities at the  
9 Department of Justice. (Earlier today, the Government advised that it will provide documents  
10 regarding such approval, but the COVID 19 disruption will delay the timing of that disclosure.)

11       2.     Defendant GARNER is engaged in analyzing evidence and preparing to file  
12 necessary pretrial motions. Counsel for Defendant GARNER requests additional time to  
13 review and analyze the discovery materials provided by the Government, and to meet and  
14 strategize with Defendant GARNER. Defendant GARNER's Motion for Disclosure of  
15 Information Regarding Confidential Informant was heard by the Court in early July of 2019  
16 and United States Magistrate Judge Ferenbach granted the Motion, subject to a Protective  
17 Order. While documentation and information responsive to Defendant GARNER's Motion and  
18 the Court's Order have been (and will be) provided by the Government, Defendant GARNER  
19 believes the Governments' compliance with the Order to be incomplete. Motion practice  
20 concerning this compliance is anticipated. Defendant GARNER and his counsel wish to  
21 receive any such materials in a timely manner, sufficiently before trial commences so as to  
22 utilize the information either in necessary pretrial motions or as part of his defense at trial.

23       3.     In addition to the above-referenced procedural considerations, the deepening  
24 recent public health crisis posed by the COVID 19 pandemic has impacted the ability of  
25 Defendant GARNER and his counsel to effectively prepare the necessary pretrial motions,  
26 given the medical and governmental restrictions attendant to the local Nevada community.  
27 Given the necessity of preparing and assembling such motions in a situation where face to face  
28 meetings between client and counsel are inadvisable and counsel's staff is working remotely, a

1 short additional extension of deadlines related to pretrial motions is necessary. The parties  
2 hereby agree that the due date for pretrial motions should be extended from April 13, 2020 to  
3 April 20, 2020, and that the deadline for responding to these motions be extended to May 4,  
4 2020. In light of the rapidly evolving nature of the public health crisis, Defendant GARNER  
5 and his counsel are aware that a further extension of the motion response deadline may become  
6 necessary.

7       4. Counsel for both Defendant GARNER and the Government are in agreement  
8 with respect to the need for a continuance of the due date for pretrial motions.

9       5. Defendant GARNER is free on pretrial release pending trial, and has no  
10 objection to the requested continuance, as it will enhance the thoroughness of his trial  
11 preparation. He is insistent on receiving as much helpful and useful evidence as possible in  
12 response to his earlier motion, and to having his pretrial motions as comprehensive as possible.

13       6. Denial of this request for continuance will result in a miscarriage of justice,  
14 given the necessity of further informed preparation by Defendant GARNER and his counsel,  
15 with access to the additional materials the Government will make available, and taking into  
16 account the restrictions upon conduct created by the pandemic.

17       7. The extension of deadlines contemplated by this Stipulation does not impact the  
18 currently scheduled trial date of June 2, 2020. Nonetheless, the additional time requested by  
19 this Stipulation is excludable in computing the time in which the trial herein must commence  
20 pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when  
21 considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and  
22 3161(h)(7)(B)(iv).

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1           8. This is the eighth request for an extension of the date by which pretrial motions  
2 must be filed.

3           DATED this 8<sup>th</sup> day of April, 2020.

4 BOIES SCHILLER FLEXNER LLP

5  
6 By: /s/ Richard J. Pocker

7 RICHARD J. POCKER, ESQ.  
Counsel for Glen Edward Garner

NICHOLAS A. TRUTANICH  
United States Attorney

By: /s/ Kevin Schiff

KEVIN SCHIFF  
Assistant United States Attorney

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UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEVADA

## FINDINGS OF FACT

Based upon the pending Stipulation of counsel, and good cause appearing therefor, the Court finds that:

22       1. The present case is currently set for trial on June 2, 2020, and the deadline for  
23 filing pretrial motions is April 13, 2020. Counsel for Defendant GARNER requests additional  
24 time to review and analyze the discovery materials provided by the Government and to meet  
25 and strategize with Defendant GARNER. In addition, the Government's compliance with the  
26 Order granting Defendant GARNER's Motion for Disclosure of Information Regarding  
27 Confidential Informant is disputed, and will be subject to motion practice.

2. Counsel for both Defendant GARNER and the Government are in agreement  
with respect to the need for a continuance of the due date for the filing of pretrial motions.

3. Defendant GARNER is presently on pretrial release pending trial, and has no objection to the requested continuance, as it will enhance the thoroughness of his trial preparation.

4. The public health crisis posed by the coronavirus pandemic has disrupted the activities of Defendant GARNER and his counsel in connection with the preparation of pretrial motions, and a short extension of the due dates for the filing of such motions is in the public interest and required to avoid a miscarriage of justice.

5. Based upon the necessity for continuity of counsel and effective preparation, denial of this request for a continuance would deny the parties herein sufficient time and opportunity to effectively and thoroughly prepare for the filing of pretrial motions in this case, taking into account the exercise of due diligence. Denial of this request would result in a miscarriage of justice.

6. The additional time requested by this Stipulation does not effect the trial date in the present case, but nonetheless is excludable in computing the time in which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

For all of the above-stated reasons, the ends of justice would best be served by a continuance of the date by which pretrial motions must be filed.

III.

## **CONCLUSIONS OF LAW**

The ends of justice served by granting said continuance outweigh the best interest of the public and the Defendant in a speedy trial, since the failure to grant said continuance would be likely to result in a miscarriage of justice, would deny the parties herein sufficient time and the opportunity within which to be able to effectively and thoroughly prepare their pretrial motions, taking into account the exercise of due diligence.

The continuance sought herein is excludable under the Speedy Trial Act, Title 18, United States Code, Section 3161(h)(7)(A), when considering the factors under Title 18, United States Code, Sections 3161(h)(7)(B) and 3161(h)(7)(B)(iv).

## **ORDER**

Based on the pending Stipulation of counsel, and good cause appearing,

8 IT IS FURTHER ORDERED that all additional Pretrial Motions are due on or before  
9 April 20, 2020 and Responses thereto are due on May 4, 2020. Replies due on or before May  
10 11, 2020.

DATED this 9th day of April, 2020.

UNITED STATES DISTRICT JUDGE